

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Case No.: 1-11-43702-jbr

Yeshiva Ktana of Bensonhurst a/k/a/ Yeshiva Shaarei Torah,

Chapter 11

Debtor.
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**DECISION AND ORDER ON CREDITOR’S MOTION TO COMPEL DEBTOR TO
VACATE AND SURRENDER PREMISES OR ALLOW LANDLORD TO USE U.S.
MARSHAL’S OFFICE TO EVICT OR IN THE ALTERNATIVE MOTION FOR RELIEF
FROM STAY TO ALLOW LANDLORD TO EXECUTE
A WARRANT OF EVICTION (DOCKET NO. 22)**

WHEREAS, 120 Avenue M, LLC (the “Landlord”) filed a motion to compel Debtor to vacate and surrender premises or allow landlord to use U.S. Marshal’s office to evict, or in the alternative, motion for relief from stay to allow landlord to execute a warrant of eviction (Docket No. 22) (the “Motion”); and

WHEREAS, the Debtor filed a Response to the Landlord’s Application to Vacate Premises (Docket No. 24) and the Court held a hearing on the Motion and opposition on July 18, 2011; and

WHEREAS, a warrant of eviction has been issued in New York State Court; and

WHEREAS, the Debtor has not been making post-petition rent payments although the Debtor offered to do so at the July 18, 2011 hearing; and

WHEREAS, this is a dispute between two parties (landlord and tenant) where there has been a significant amount of litigation in the State Court and at least two New York State Court Judges are familiar with the case; and

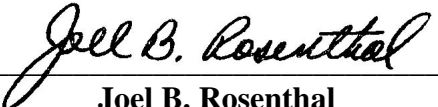
WHEREAS, the Debtor apparently would have this Court adjudicate its State Court claim(s) against Landlord; this Court has serious questions of its ability to do so based on the recent Supreme Court case of *Stern v. Marshall*, 564 U. S. ____ (2011), 2011 WL 2472792 (U.S. June 23, 2011);

For these reasons, the Court finds that there is sufficient cause to lift the automatic stay pursuant to § 11 U.S.C. 362(d)(1) and that the appropriate place for litigation to continue, if at all, is in the New York State Courts; therefore, it is hereby

ORDERED, that the automatic stay pursuant to § 11 U.S.C. 362 is hereby terminated, effective on **August 19, 2011**, and that the automatic stay will remain in place until that date in order to give the Debtor an opportunity to pursue its appeals or actions in New York State Court, including the opportunity to seek a stay in State Court if it so wishes.

Dated: July 19, 2011
Brooklyn, New York




Joel B. Rosenthal
United States Bankruptcy Judge